

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re application of **Eastman *et al.*** Examiner: **SHARMA, SUJATHA R.**
Application No. : **10/626,244** Group Art Unit.: **2618**
Filed : **July 24, 2003** Confirmation No.: **9995**
Title : **COMPUTER BASED MULTI-CHANNEL RADIO SYSTEM AND
USER INTERFACE**
Docket No. : **7042-21** Customer No.: **30448**

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/Pablo Meles/, Reg. No. 33,739
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Hon. Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Honorable Judges:

This is an appeal from the final rejection in the Office action dated September 25, 2007, finally rejecting claims 1-26.

Appellants submit this *Appeal Brief*, including payment in the amount of \$510.00 to cover the fee for filing the *Appeal Brief*. **Please charge the fee required for the *Appeal Brief* to deposit account No. 50-0951.**

Real Party in Interest:

This application is assigned to XM Satellite Radio, Inc., a Washington, D.C. Corporation with offices at 1500 Eckington Place, NE, Washington, DC 20002. The assignment has been recorded by the USPTO on July 24, 2003, at Reel No. 014325, Frame No. 0460.

Related Appeals and Interferences:

No related appeals or interference proceedings are currently pending which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

Status of Claims:

Claims 1-26 are pending in the present application. Claims 1-5, 8-12, 20-22, and 26 stood finally rejected under U.S.C. § 103(a) as being unpatentable by U.S. Pat. Publication No. 2007/0118833 by Hilt (Hilt) in view of U.S. Pat. No. 2004/0049389 to Marko et al (Marko) and further in view of U.S. Pat. No. 6,553,077 to Rindsberg (Rindsberg). Claim 6 was rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent No. 7194687 to Sezan. Claim 7 was rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent Application Publication No. 2004/0196179 to Turnbull. Claims 13-15 were rejected under U.S.C. § 103(b) as being unpatentable over Hilt in view of Marko. Claims 16-18, 23 and 25 were rejected under U.S.C. § 103(b) as being unpatentable over Marko in view of Rindsberg. Claims 17 and 14 were rejected under U.S.C. § 103(b) as being unpatentable over Marko in view of Rindsberg and further in view of Sezan.

Status of Amendments:

An Amendment after Final was submitted on November 28, 2007 with minor changes to claims 1 and 13 for clarification purposes and the Examiner continued the rejections above and refused to enter the Amendment stating that such amendment "requires further consideration

and/or search.” A Pre-Appeal Conference Request and a Pre-Appeal Brief was filed along with a *Notice of Appeal* on December 21, 2007.

Summary of the Claimed Subject Matter:

An embodiment in accordance with the invention, for example, can provide as recited in claim 1 of the application, computer based multi-channel radio system [See Figs. 1 2, and 5 generally and item 100 in FIG. 2] comprises a computer [item 214, FIG. 2] coupled to a display [item 215, FIG. 2 or 5] and having a graphical user interface [item 500, 600, or 700 in FIGs. 5, 6, or 7 respectively, for example] and a single digital audio radio receiver [item 203 in FIG. 2] coupled to the computer for selectively receiving a plurality of channels and data [items 103 or 104 in FIG. 3] associated with the plurality of channels from a single data stream over the air, wherein the graphic user interface selectively displays at least a portion of the data associated with the plurality of channels and wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029] and wherein such data associated with the plurality of channels is simultaneously updated and displayed [see FIG. 5 and paragraph 0047] on the graphical user interface.

A second embodiment in accordance with the invention, for example, can provide as recited in claim 13 of the application, a computer based multi-channel radio, comprising a single digital audio radio receiver [item 203 in FIG. 2] for receiving a plurality of channels and data associated with the plurality of channels over-the-air, a channel decoder coupled to the radio receiver, and a port for transmitting data associated with the plurality of channels, transmitting an output signal representative of selected channels among the plurality of channels, and for receiving control signals from a computer [item 214 of FIG. 2] having a graphical user interface [item 500, 600, or 700 in FIGs. 5, 6, or 7 respectively, for example], wherein the graphic user interface selectively displays the data associated with the plurality of channels simultaneously and user selectively controls the channel decoder by selecting the selected channels on the graphical user display [see FIG. 5 and paragraph 0047], wherein the data associated with the

plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029].

A third embodiment in accordance with the invention, for example, can provide as recited in claim 16 of the application, a method [see paragraph 0012 generally] of representing a plurality of channels on a display, comprising the steps of extracting data [see paragraph 0026] associated with each channel in the plurality of channels from a data stream using a single digital audio radio receiver [item 203 of FIG. 2], enabling the selective display of the data associated with each of the plurality of channels on a graphical user interface, simultaneously updating and displaying [see FIG. 5 and paragraph 0047] of the associated data for a selected plurality of channels among the plurality of channels wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029], and selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface.

A fourth embodiment in accordance with the invention, for example, can provide as recited in claim 20 of the application a method [see paragraph 0013 and FIGs. 2 and 5 generally] of displaying a group of selected channels among a plurality channels, comprising the steps of controlling a remote source for receiving a single digitally encoded bit stream on at least a portion of the plurality of channels and decoding a selected channel among the plurality of channels using a digital audio radio receiver [item 203 of FIG. 2], selectively displaying data associated with each of the plurality of channels on a graphical user interface [item 500, 600, or 700 in FIGs. 5, 6, or 7 respectively, for example] wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029], updating and displaying [see FIG. 5 and paragraph 0047] the data associated with the plurality of channels in a rapid recurring succession, and enabling the output of the selected channel as represented by the graphical user interface.

A fifth embodiment in accordance with the invention, for example, can provide as recited in claim 25 of the application, a machine-readable storage, having stored thereon a computer

program having a plurality of code sections executable by a machine for causing the machine to perform the steps [see paragraph 0014 and FIGs. 2 and 5 generally] of extracting [see paragraph 0026] data associated with each channel in the plurality of channels from a single data stream using a digital audio radio receiver [item 203 of FIG. 2], enabling the selective display of the data associated with each of the plurality of channels on a graphical user interface [item 500, 600, or 700 in FIGs. 5, 6, or 7 respectively, for example], simultaneously updating and displaying [see FIG. 5 and paragraph 0047] of the associated data for a selected plurality of channels among the plurality of channels wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029], and selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface.

A sixth embodiment in accordance with the invention, for example, can provide as recited in claim 26 of the application, a machine-readable storage, having stored thereon a computer program having a plurality of code sections executable by a machine for causing the machine to perform the steps [see paragraph 0014 and FIGs. 2 and 5 generally] of controlling a remote source for receiving a single digitally encoded bit stream on at least a portion of the plurality of channels and decoding a selected channel among the plurality of channels using a digital audio radio receiver [item 203 of FIG. 2], selectively displaying data associated with each of the plurality of channels on a graphical user interface wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names [see FIG. 5 and paragraph 0029], updating and displaying [see FIG. 5 and paragraph 0047] the data associated with the plurality of channels in a rapid recurring succession, and enabling the output of the selected channel as represented by the graphical user interface.

Grounds of Rejection to be Reviewed on Appeal

1. Whether or not Claims 1-5, 8-12, 20-22, and 26 are unpatentable over U.S. Patent U.S. Pat. Publication No. 2007/0118833 by Hilt (Hilt) in view of U.S. Pat. No. 2004/0049389 to Marko et al (Marko) and further in view of U.S. Pat. No. 6,553,077 to Rindsberg (Rindsberg) under 35 U.S.C. 103(a).
2. Whether or not Claim 6 is unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent No. 7194687 to Sezan under 35 U.S.C. § 103(a).
3. Whether or not Claim 7 is unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent Application Publication No. 2004/0196179 to Turnbull under 35 U.S.C. § 103(a).
4. Whether or not Claims 13-15 are unpatentable over Hilt in view of Marko under 35 U.S.C. § 103(a).
5. Whether or not Claims 16-18, 23 and 25 are unpatentable over Marko in view of Rindsberg under U.S.C. § 103(b).
6. Whether or not Claims 17 and are unpatentable over Marko in view of Rindsberg and further in view of Sezan under U.S.C. § 103(b).

Argument:

CLAIMS 1-5, 8-12, 20-22, and 26 ARE PATENTABLE OVER HILT IN VIEW OF MARKO AND RINDSBERG UNDER 35 U.S.C. 103(A)

Hilt is directed towards a scheme that enables satellite digital audio radio (such as an XM Satellite Radio) and a browser associated with the radio to avoid a firewall in order to communicate with a remote server. Hilt does not teach or suggest a computer coupled to a display having a GUI where data associated with a plurality of channels including channel numbers, artist names, song titles, and channel names are simultaneously updated and displayed on the GUI of the display of the computer. Hilt does not discuss a GUI that updates and presents this particular data.

Marko does discuss channel numbers, artist names and other related data, but in the context of a text-to-speech device. Although Marko discusses the existence of such data being received by the XM radio or Satellite Digital Audio Radio, Marko fails to teach or suggest that such data is coupled to a computer having a display and a GUI where the GUI simultaneously updates and displays the channels and the associated data. Instead, Marko discusses a device in paragraph 26 where "a first portion of real time digital audio channels contains associated data intended for text display on a receiving device and optionally at least a second portion of the plurality of digital audio channels contains associated data intended for real-time play back by a text-to-speech converter in the receiving device." This is not teaching the multiple channels are being updated and displayed simultaneously as claimed.

Rindsberg is generally directed to a "favorites" feature for selection of music in a satellite radio system for example. Although Rindsberg discusses a channel reference table, this table is not updated and displayed on a GUI as claimed. The channel reference table in column 3, line 45 or in column 4 lines 49-50 is not a GUI. FIG. 6 in Rindsberg illustrates the Channel Reference Table. Again, the Channel Reference Table is not a GUI that is displayed.

Even if one were to combine the Hilt, Marko, and Rindsberg, the combination would still fail to teach or obviate the claimed embodiments as recited in Claims 1-5, 8-12, 20-22, and 26 since the combination would fail to include a single audio digital receiver coupled to a computer having a GUI where the GUI is updated and displayed with certain recited data. The data updated and displayed is not associated with a single channel, but rather associated with a plurality of channels and includes a plurality of channel numbers, a plurality of artist names, a plurality of song names, etc. that are updated and displayed simultaneously on the GUI. Being able to update and display the data simultaneously (or in rapid recurring succession as recited in claims 20 and 26) for all such channels is not a trivial improvement over the cited art, but a significant improvement. Therefore, Applicant respectfully believes claims are novel and non-obvious over the cited art and overcome the rejection under U.S.C. § 103(a) as being unpatentable over Hilt, Marko and Rindsberg.

**CLAIM 6 IS PATENTABLE OVER HILT IN VIEW OF MARKO, RINDSBERG
AND SEZAN UNDER 35 U.S.C. 103(A)**

Claim 6 was rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of Sezan. In addition to the deficiencies in the art as noted

above, the Examiner also discusses Ellis, a previously cited reference. As noted in a prior response, Ellis is directed more towards a multi-receiver system (such as a multi-FM receiver system or a system that includes an FM receiver and a satellite receiver among a number of receivers). Ellis fails to discuss a single radio system that receives a single data stream where multiple channels are decoded therefrom. Furthermore, it would appear to be an improper use of hindsight for the examiner to cite a reference originally cited by the Applicant in an attempt to try to obviate a novel and non-obvious invention. The Applicant's system can further reduce costs by removing the need for multiple receivers as called for in Ellis.

With respect to claim 6, none of the references individually or in combination teach or even suggest, mention or contemplate a GUI that enables the simultaneous viewing of channels numbers, artist names, song titles, channel names, categories and use percentage of the channels among the plurality of channels. Sezan discusses the usage history, but only in terms of percentage of a video program played by a user. Sezan does not keep track of particular channels among a plurality of channels that a user is listening to. Use percentage in the context claimed is clearly not shown in any of the references cited and the additional combination of information is clearly novel and non-obvious.

**CLAIM 7 IS PATENTABLE OVER HILT IN VIEW OF MARKO, RINDSBERG
AND TURNBULL UNDER 35 U.S.C. 103(A)**

Claim 7 was rejected under U.S.C. § 103(a) as being unpatentable by Hilt and Marko in view of Rindsberg and Turnbull. As noted above with respect to claims 6 (and 17), none of the references alone or in combination teach or suggest, mention, or contemplate a system that has a GUI that displays information associated with a plurality of channels that comes from a single receiver that extracts data associated from each channel from a single data stream and that simultaneously updates and displays the particular associated data affiliated with a digital audio radio such as the signal strength information as recited in claims 7 and 19. Claims 7 and 19 also refer to both signal strength from a satellite and terrestrial source and displaying same. Further, the inappropriate use of hindsight with respect to using Rindsberg is reiterated.

CLAIMS 13-15 ARE PATENTABLE OVER HILT IN VIEW OF MARKO UNDER 35

U.S.C. 103(A)

Claims 13-15 were rejected under U.S.C. § 103(b) as being unpatentable over Hilt in view of Marko. As noted above, Hilt and Marko fail to teach, suggest, mention or contemplate a plurality of channels that includes a plurality of channel numbers, a plurality of artist names, a plurality of song names, etc. that are updated and displayed simultaneously on a GUI in the context recited in claims 13-15.

**CLAIMS 16-18, 23 and 25 ARE PATENTABLE OVER MARKO IN VIEW OF
RINDSBERG UNDER 35 U.S.C. 103(A)**

With respect to claims 16, 18, 23, 25 as well as 17 and 24, the arguments discussed above equally apply. Although the Ellis or even the Hilt, Marko, Rindsberg or Sezan reference includes some of the elements claimed in Claims 1-6, 8-12, 16-18, and 20-26, each of these cited references still fails to teach, suggest, mention or contemplate a computer based multi-channel radio where a single radio receiver is used to receive a data stream when multiple channels are decoded from the data stream so that a plurality of channels is updated and displayed simultaneously. Instead, Ellis teaches a multi-receiver system that can decode one channel per receiver, thus any system as taught by Ellis would necessarily include multiple receivers for receiving multiple sources of content. The Examiner seemed to not really base the rejection on Ellis, but yet references Ellis in paragraph 6, page 9 of the Office Action of Sept. 25, 2007. In any event, Ellis teaches away from using a single receiver by stating that receivers or tuners are less costly than TV tuners and would be feasible to have multiple receivers (see Paragraph 0010 of Ellis). Furthermore, Ellis states that multiple radio receivers may be provided for a single radio source (See paragraph 0100 of Ellis). Thus, only a piecemeal combination of references is being used in an attempt to obviate the claims as currently recited since the claims are directed toward methods and systems using a digital audio radio where the specific data that can be simultaneously updated and displayed and is done in a unique context using a single radio receiver and a GUI.

**CLAIM 17 IS PATENTABLE OVER MARKO IN VIEW OF RINDSBERG AND
SEZAN UNDER 35 U.S.C. 103(A)**

With respect to claim 17, none of the references individually or in combination teach or even suggest, mention or contemplate a GUI that enables the simultaneous viewing of

channels numbers, artist names, song titles, channel names, categories and use percentage of the channels among the plurality of channels. Sezan discusses the usage history, but only in terms of percentage of a video program played by a user. Sezan does not keep track of particular channels among a plurality of channels that a user is listening to. Use percentage in the context claimed is clearly not shown in any of the references cited and the additional combination of information is clearly novel and non-obvious.

No new matter was introduced and prior Amendment did not require any additional search since the subject matter and scope claimed as amended had been previously presented in the pre-existing claims. In view of the forgoing, the honorable Board is therefore respectfully urged to reverse the final rejection of the Primary Examiner.

The Commissioner is hereby authorized to charge any fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account Number 50-0951.

Respectfully submitted,

Dated: **March 25, 2008**

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Claims Appendix:

1. A computer based multi-channel radio system, comprising:
 - a computer coupled to a display and having a graphical user interface; and
 - a single digital audio radio receiver coupled to the computer for selectively receiving a plurality of channels and data associated with the plurality of channels from a single data stream over the air, wherein the graphic user interface selectively displays at least a portion of the data associated with the plurality of channels and wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names and wherein such data associated with the plurality of channels is simultaneously updated and displayed on the graphical user interface.
2. The system of claim 1, wherein the system further comprises at least one among a volume control, a tone control, and an output port on the radio receiver, wherein the output port can selectively stream data or audio or video from a selected channel among the plurality of channels from a single stream of data.
3. The system of claim 1, wherein the graphic user interface further comprises a program to selectively tag a desired type of content among the plurality of channels, analyze the data associated with the plurality of channels for an indication of content of the desired type among the plurality of channels, and alert a user of a desired channel containing the indication.
4. The system of claim 3, wherein the user is alerted by a pop-up window of the desired content on the desired channel.
5. The system of claim 1, wherein updates for the data associated with the plurality of channels recur in rapid succession.
6. The system of claim 1, wherein the graphical user interface enables the simultaneous viewing of a plurality of channel numbers, a plurality of artist names, a plurality of song titles, a plurality of channel names, a plurality of categories, and a plurality of use percentages of the channels among the plurality of channels.

7. The system of claim 1, wherein the graphical user interface enables the viewing of signal strength of a signal received from a satellite signal and a terrestrial signal.
8. The system of claim 1, wherein the data associated with the plurality of channels is extracted from a broadcast information channel received at the radio receiver as one of the plurality of channels.
9. The system of claim 1, wherein the data associated with the plurality of channels is extracted from a plurality of channel decoders performing background scanning among the plurality of channels to create a broadcast information channel from the single data stream using the single radio receiver.
10. The system of claim 1, wherein the radio receiver is a satellite digital audio receiver.
11. The system of claim 1, wherein the system further comprises a global network connection.
12. The system of claim 1, wherein the computer controls the radio receiver.

13. A computer based multi-channel radio, comprising:

a single digital audio radio receiver for receiving a plurality of channels and data associated with the plurality of channels over-the-air;

a channel decoder coupled to the radio receiver; and

a port for transmitting data associated with the plurality of channels, transmitting an output signal representative of selected channels among the plurality of channels, and for receiving control signals from a computer having a graphical user interface, wherein the graphic user interface selectively displays the data associated with the plurality of channels simultaneously and user selectively controls the channel decoder by selecting the selected channels on the graphical user display, wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names.

14. The radio of claim 13, wherein the data associated with the plurality of channels is extracted from a broadcast information channel received at the radio receiver from a single data stream as one of the plurality of channels.

15. The radio of claim 13, wherein the data associated with the plurality of channels is extracted from a channel decoder in the radio performing background scanning among the plurality of channels and the output signal representative of the selected channel is an audio output.

16. A method of representing a plurality of channels on a display, comprising the steps of:
- extracting data associated with each channel in the plurality of channels from a data stream using a single digital audio radio receiver;
 - enabling the selective display of the data associated with each of the plurality of channels on a graphical user interface
 - simultaneously updating and displaying of the associated data for a selected plurality of channels among the plurality of channels wherein the data associated with the plurality of channels includes a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names; and
 - selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface.
17. The method of claim 16, wherein the step of enabling the selective display of the data comprises the step of simultaneously displaying a plurality of channel numbers, a plurality of artist names, a plurality of song titles, a plurality of channel names, a plurality of categories, and a plurality of use percentage of the channels among the plurality of channels.
18. The method of claim 16, wherein the graphical user interface includes a plurality of selectable tabs to enable the viewing of a plurality of channels belonging to predetermined categories selected from the group of categories including all, music, news, talk, last 10, favorites, traffic, weather, video, rock, classical, jazz, kids, comedy, and user customizable.
19. The method of claim 16, wherein the method further comprises extracting a signal strength measurement from the radio receiver and displaying the measurement from a terrestrial source and a satellite source on a screen of the graphical user interface.

20. A method of displaying a group of selected channels among a plurality channels, comprising the steps of:

controlling a remote source for receiving a single digitally encoded bit stream on at least a portion of the plurality of channels and decoding a selected channel among the plurality of channels using a digital audio radio receiver;

selectively displaying data associated with each of the plurality of channels on a graphical user interface wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names;

updating and displaying the data associated with the plurality of channels in a rapid recurring succession; and

enabling the output of the selected channel as represented by the graphical user interface.

21. The method of claim 20, wherein the method further comprises the step of selectively tagging a desired type of content on the selected channel by analyzing a broadcast information channel and/or an Electronic Program Guide for an indication of content of the desired type among the plurality of channels.

22. The method of claim 21, further comprising the step of alerting a user of a desired channel containing the indication.

23. The method of claim 22, wherein the step of tagging further comprises the step of storing descriptors representative of the content on the selected channel in a memory.

24. (Original) The method of claim 20, wherein the step of selectively displaying data associated with each of the plurality of channels comprises simultaneously displaying data associated with at least two of the plurality of channels.

25. A machine-readable storage, having stored thereon a computer program having a plurality of code sections executable by a machine for causing the machine to perform the steps of:

extracting data associated with each channel in the plurality of channels from a single data stream using a digital audio radio receiver;

enabling the selective display of the data associated with each of the plurality of channels on a graphical user interface;

simultaneously updating and displaying of the associated data for a selected plurality of channels among the plurality of channels wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names; and

selectively controlling a remotely coupled channel decoder on a radio receiver via the graphical user interface.

26. A machine-readable storage, having stored thereon a computer program having a plurality of code sections executable by a machine for causing the machine to perform the steps of:

controlling a remote source for receiving a single digitally encoded bit stream on at least a portion of the plurality of channels and decoding a selected channel among the plurality of channels using a digital audio radio receiver;

selectively displaying data associated with each of the plurality of channels on a graphical user interface wherein the data associated with the plurality of channels includes at least a plurality of channel numbers, a plurality of artist names, a plurality of song titles, and a plurality of channel names;

updating and displaying the data associated with the plurality of channels in a rapid recurring succession; and

enabling the output of the selected channel as represented by the graphical user interface.

Evidence Appendix:

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner and relied upon by appellant in the appeal.

Related Proceedings Appendix:

No prior or pending appeals, interferences or judicial proceedings are in existence which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal. Accordingly, no copies of decisions rendered by a court or the Board are available.